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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 MMCA GROUP, LTD., No. C-06-7067 MMC (EMC)
9 Plaintiff,

10 v.
11 HEWLETT-PACKARD COMPANY, *et al.*
12 Defendants.

**ORDER RE JOINT LETTER OF
MARCH 27, 2009**

15 Plaintiff MMCA Group, Ltd. and Defendant PICA Corporation have submitted a joint letter,
16 dated March 27, 2009, regarding a discovery dispute. The dispute involves whether or not MMCA's
17 designation of certain documents as "Highly Confidential – Attorney's Eyes Only" was appropriate.
18 Having reviewed the joint letter and the accompanying submissions, the Court hereby **GRANTS** in
19 part and **DENIES** in part PICA's request for de-designation.

I. DISCUSSION

21 | A. Power of Attorney Letters

22 These letters contain the names of MMCA's associates. *See* Joint Letter, Ex. A (sample
23 letter). MMCA's position is that the identities of the associates are trade secrets. The issue of
24 whether the identities are trade secrets is not for the Court to decide; rather, that is an issue for Judge
25 Chesney and/or the trier of fact. Contrary to what PICA argues, the designation issue is separate and
26 distinct from this ultimate issue. Because there is a risk that the letters contain sensitive trade secret
27 information and because PICA has not demonstrated a substantial need to have Mr. Alcalde view the
28 letters for the upcoming depositions, the Court shall not order any de-designation, with one

1 exception. That exception is as follows: For any associate whose identity was allegedly divulged to
2 PICA, MMCA shall de-designate any power of attorney letter, to the extent it exists. The de-
3 designation shall be from “Highly Confidential – Attorney’s Eyes Only” to “Confidential.”

4 B. Invoice Summaries

5 The invoice summaries are in essence billing summaries. *See* Joint Letter, Ex. C (sample
6 invoice summary). The Court rejects MMCA’s argument that the invoice summaries are deserving
7 of the highest level of protection, particularly because (1) they do not contain any detailed
8 information about pricing and (2) they reflect only work that MMCA did for HP, and PICA is now
9 undisputedly HP’s vendor for anticounterfeiting services. Accordingly, the Court orders that the
10 invoice summaries be de-designated from “Highly Confidential – Attorney’s Eyes Only” to
11 “Confidential.”

12 C. Invoices

13 While the invoice summaries do not contain any detailed information about pricing, the
14 actual invoices do. *See* Joint Letter, Ex. B (sample invoice). Moreover, contrary to what PICA
15 contends, the invoices also reflect information about the means by which the investigations were
16 conducted, which MMCA asserts are part of its trade secrets. Accordingly, the Court shall not order
17 any de-designation of these documents.

18 D. Form Questionnaire

19 The form questionnaire is a list of questions used by MMCA employees in answering HP’s
20 counterfeit hotline. *See* Joint Letter, Ex. D (form questionnaire). While MMCA likely would not
21 provide the questionnaire to a competitor, the Court does not see any serious injury that MMCA
22 would suffer if PICA – Mr. Alcalde, in particular – were permitted to see the questionnaire. *See*
23 Prot. Order ¶ 2.5 (defining “Highly Confidential – Attorney’s Eyes Only” information as extremely
24 sensitive “Confidential” information “whose disclosure would create a substantial risk of serious
25 injury that could not be avoided by less restrictive means”). Notably, even MMCA admits that the
26 information is not critical. Accordingly, the Court orders that the questionnaire be de-designated
27 from “Highly Confidential – Attorney’s Eyes Only” to “Confidential.”

28 E. E-mail Chains

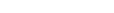
1 There are two e-mail chains that MMCA claims should be protected by the designation
2 “Highly Confidential – Attorney’s Eyes Only.” *See* Joint Letter, Exs. E-F (e-mail chains). MMCA
3 claims that the e-mail chains reflect information about the means by which the investigations were
4 conducted. Although these isolated e-mail communications do not seem to reflect much information
5 about the means by which the investigations were conducted (in contrast to the invoices themselves,
6 particularly when taken as a whole), the Court cannot say that the communications do not reflect any
7 information, and accordingly it shall allow MMCA’s designation to stand.

II. CONCLUSION

9 For the foregoing reasons, PICA's request for de-designation is granted in part and denied in
10 part.

IT IS SO ORDERED.

Dated: March 31, 2009


EDWARD M. CHEN
United States Magistrate Judge